



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 16, 1992

Mr. Leonard W. Peck, Jr.  
Assistant General Counsel  
Legal Affairs Division  
Texas Department of Criminal Justice  
Institutional Division  
P. O. Box 99  
Huntsville, Texas 77342-0099

Re: Brendan Pemberton, TDCJ #566257;  
TDCJ OR92-0529-0277

OR92-351

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 16380.

You received a request for information under the Open Records Act from Mr. Brendan Pemberton on May 29, 1992. Based on the postmark of your letter, you requested a decision from this office on June 9, 1992. Consequently, this office concludes that you failed to request a decision within the 10 days required by section 7(a) of the act.

Section 7(a) of the act requires a governmental body to release requested information or to request a decision from the attorney general within 10 days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within 10 days of receiving a request for information, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App. - Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App. - Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. *See id.*

You have not shown compelling reasons why the information at issue should

not be released. Consequently, this office cannot consider your claims with regard sections 3(a)(8) and 3(a)(11). Further, because you have not submitted copies of the requested documents, this office also lacks the necessary information to evaluate your claims under sections 3(a)(1) and 3(a)(7). The requested information is presumed to be public.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-351.

Yours very truly,



Rick Gilpin  
Assistant Attorney General  
Opinion Committee

RG/RWP/lmm

Ref: ID# 16380

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